

UNITED STATES DISTRICT COURT

for the

Western District of Texas

United States of America

v.

Case No. **SA:23-MJ-00340**BUEL DEWAYNE SMILEY*Defendant(s)*

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of January 14, 2023 in the county of Medina in the
Western District of Texas, the defendant(s) violated:*Code Section**Offense Description*

18 USC § 922(g)(1)

Felon In Possession of a Firearm

PENALTIES:

Up to 15 Years Imprisonment, \$250,000 Fine, 3 Years Supervised
Release, \$100 Mandatory Special Assessment

This criminal complaint is based on these facts:

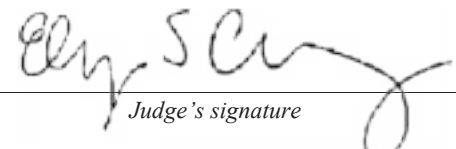
See Attached Affidavit

☒ Continued on the attached sheet.ROBERT HOUSTON Digitally signed by ROBERT HOUSTON
Date: 2023 03 07 12:50:30 -06'00'*Complainant's signature*

Robert Houston, FBI SA

Printed name and title

- ☐ Sworn to before me and signed in my presence.
☒ Sworn to telephonically and signed electronically.

Date: 03/08/2023 10:01 AMCity and state: San Antonio, Texas*Judge's signature*

ELIZABETH S. CHESTNEY, U.S. MAGISTRATE JUDGE

Printed name and title

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

I, Robert Houston, being first duly sworn, hereby depose and state as follows:

INTRODUCTION AND AGENT BACKGROUND

1. I am a Special Agent with the Federal Bureau of Investigation (FBI) assigned to the San Antonio Field Office. I have been a Special Agent of the FBI since July 2019. I am assigned to the Joint Terrorism Task Force (JTTF) in the FBI's San Antonio Division and work cases involving domestic violent extremists. As a Special Agent of the FBI, I have received extensive training at the FBI Quantico Special Agent Training Academy. This training covered many aspects of criminal investigations including the elements of a crime, probable cause, and investigative techniques. Prior to becoming a FBI Agent, I served as a Counterintelligence Special Agent for the United States Army where I received training on investigations, interviews, interrogation and surveillance. Through training, education, and experience I have become familiar with the involvement of domestic extremist group members in violent activities and their methods of communication in order to plan and carry out attacks while avoiding detection by law enforcement.

2. This affidavit is based upon my personal knowledge, and upon information discovered through investigative means by me or by other federal, state, and local law enforcement officers during the course of their official duties, all of whom I believe to be truthful and reliable. I have also reviewed digital and physical surveillance reports captured by law enforcement officers of the subject. Throughout this affidavit, reference will be made to law enforcement officers. Law enforcement officers are those federal, state, and local law enforcement officers who have directly

participated in this investigation, and with whom your affiant has had regular contact regarding this investigation. This affidavit is also based upon information gained from BUEL DEWAYNE SMILEY's (SMILEY) publically available social media accounts and the comments, text, videos and photographs contained therein.

3. Based on my training, experience, and the facts set forth in this affidavit, I believe there is probable cause that SMILEY has violated 18 U.S.C § 922(g)(1) – Possession of a Firearm by a Convicted Felon.

PROBABLE CAUSE

4. FBI has been investigating Buel Dewayne SMILEY since December 2022, after an anonymous tipster reported threatening posts on a Facebook account with the username “Willy Peter”.

5. Following the anonymous tip, FBI identified a possible subject near the Austin, Texas area and forwarded the information to the Austin Regional Intelligence Center (ARIC). ARIC identified motorcycles featured in the online posts as registered to Buel Dewayne SMILEY with an address in Castroville, Texas. SMILEY's Texas driver's license lists the same address in Castroville, Texas. SMILEY's driver's license photo matches that of the individual depicted in Facebook posts by the username “Willy Peter.”

6. I have reviewed SMILEY's criminal history. In or around June 2011 SMILEY was convicted in the United States District Court, Western District of Texas, Pecos Division, for aiding and abetting possession with intent to distribute marijuana. SMILEY was sentenced to 57 months in the custody of the Bureau of Prisons.

7. On 17 January 2023, a review of publicly available content on the Facebook account “Willy Peter” showed a photograph dated 14 January 2023 of SMILEY holding a black, pump action tactical shotgun, with a laser aiming device affixed to the handguard and a silver and black pistol holstered on his belt (Photo 1). The shotgun closely resembles several shotguns made in Turkey and sold under various names, such as the Emperor Duke Ultra (Photo 2). Indeed, another photograph posted to the Facebook account for “Willy Peter” (Photo 3) depicts what appears to be the same tactical shotgun and silver and black pistol from Photo 1, on what appears to be the same Confederate battle flag behind SMILEY in Photo 1. The markings in Photo 3 are more legible than those in Photo 1. The shotgun is marked with “DUKE ULTRA” in white lettering under the ejection port. The shotgun is also marked with a double-headed eagle above the trigger, which is the same logo that appears on the Emperor Firearms website. Emperor Firearms confirms on their website that their firearms are made in Turkey.

Photo 1

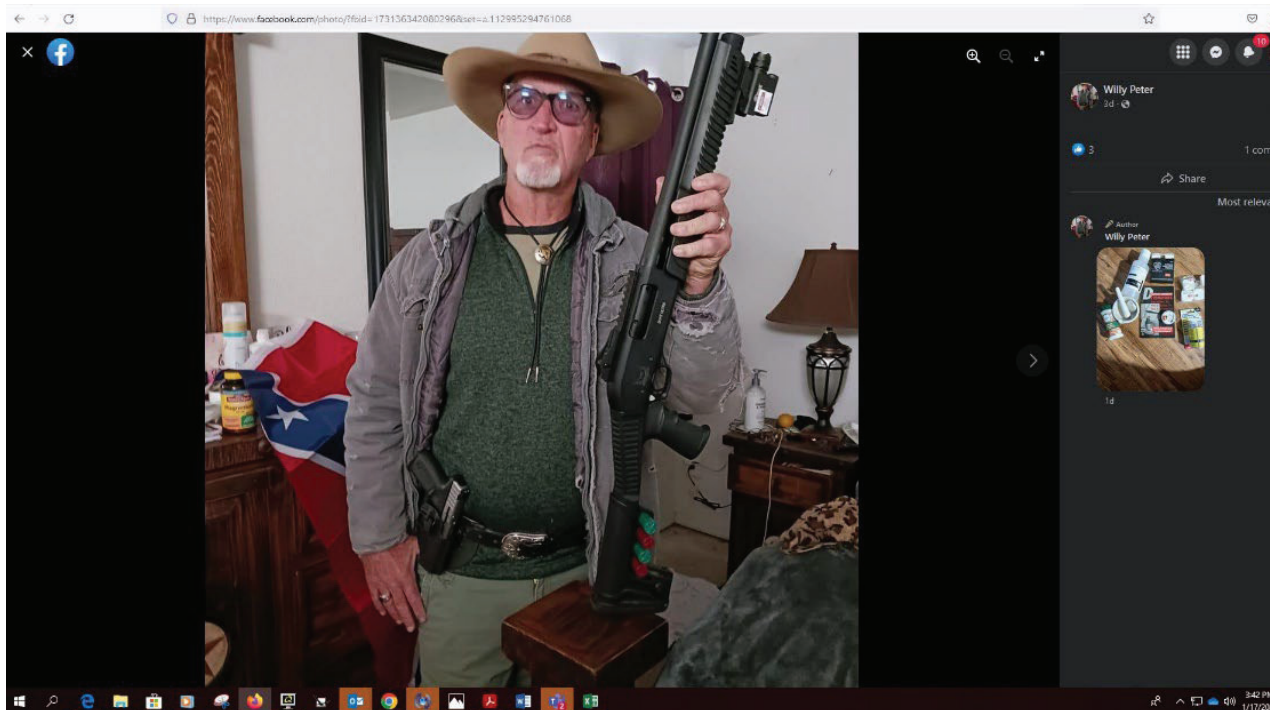


Photo 2

Emperor Duke Ultra 12 Gauge Firearm - Blue/Black, 18.5" Barrel, 4+1 Rounds, Synthetic, 3" Chamber

★★★★☆ 9 Reviews | 11 Questions & Answers

Model: **DUKEULTRAMB**

Condition: **Factory New**

Bud's Item Number: **411559750**

UPC: **868060600498**

MFG: **Emperor**



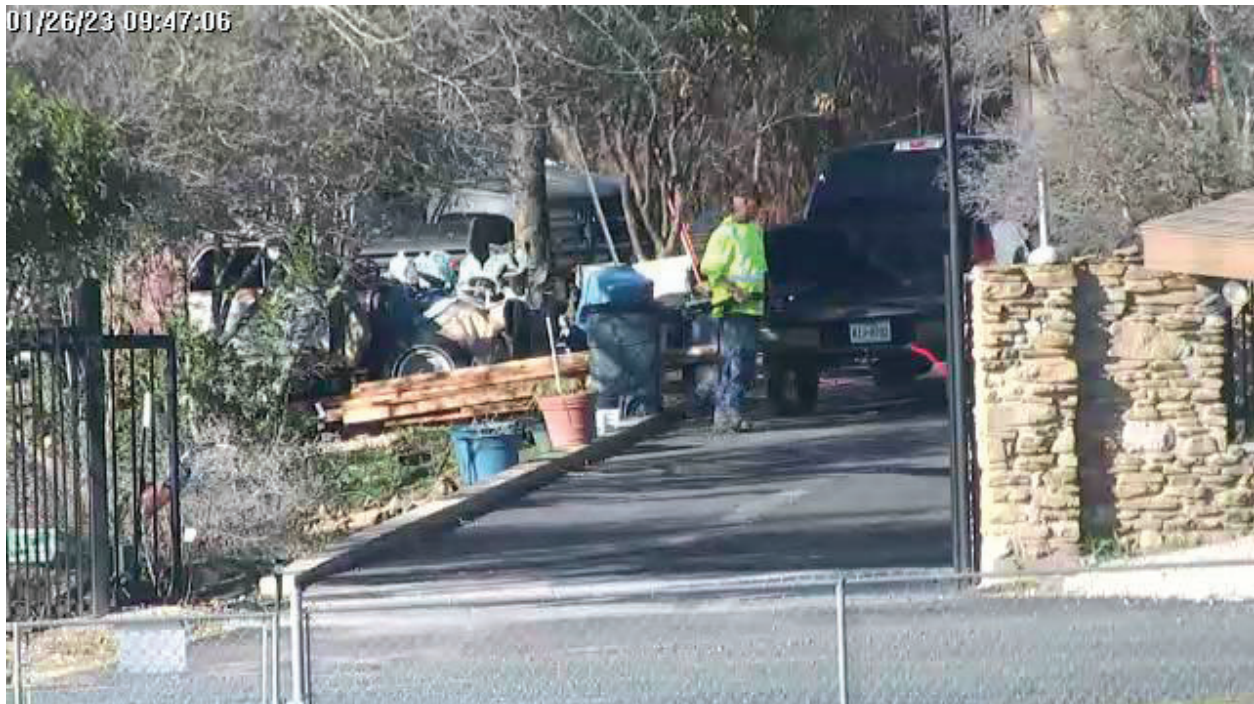
Photo 3



8. On 25 January 2023, FBI San Antonio initiated surveillance on SMILEY at his residence. On that date, FBI surveillance saw SMILEY sitting on the open tailgate of his pickup truck manipulating what appeared to be a black tactical firearm. This firearm appeared similar to the shotgun held by SMILEY in Photo 1.

9. On 26 January 2023, FBI surveillance saw SMILEY remove a black tactical firearm from the driver's side interior of his pickup truck and place it on the open tailgate of the pickup truck. The firearm remained on the tailgate, in close proximity to SMILEY, while he performed various outdoor chores (Photo 4). At the conclusion of his chores, SMILEY carried the firearm into his residence. Again, this firearm appeared similar to the tactical shotgun held by SMILEY in Photo 1.

Photo 4



10. On 3 February 2023 at approximately 6:54 a.m. SMILEY was observed, via FBI video surveillance, holding what appeared to be a firearm while checking the perimeter of the

Premises. Based on my experience, it appeared that SMILEY was holding a shoulder fired weapon. I believe this was likely the same tactical shotgun from Photo 1 as it was black, raised to SMILEY's shoulder, and emitted a red laser that was visible in the vegetation as SMILEY moved about the Premises. The shotgun depicted in Photo 1 and Photo 3 has a laser aiming device affixed to the handguard.

CONCLUSION

11. Based upon the information set forth above, there is probable cause to believe that on or about January 14, 2023, **BUEL DEWAYNE SMILEY** violated Title 18, United States Code Sections 922(g)(1).

ROBERT
HOUSTON

Digitally signed by ROBERT
HOUSTON
Date: 2023.03.07 12:55:51
-06'00'

Robert Houston
Special Agent
Federal Bureau of Investigation

Sworn to telephonically and signed electronically on March 7, 2023.


ELIZABETH S. CHESTNEY
UNITED STATES MAGISTRATE JUDGE